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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,538	03/14/2001	Hideo Ando	204567US2S	2693

22850 7590 02/18/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/805,538

Applicant(s)

ANDO ET AL.

Examiner

Gautam R. Patel

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8 &amp; 10</u> . <u>cd</u> | 6) <input type="checkbox"/> Other: _____  |

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**Response to Amendment**

1. This is in response to amendment filed on 1-14-04 ( Paper # 10).
2. Claims 9-10 remain for examination.

**Claim Rejections - 35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 9-10 are rejected under 35 U.S.C. § 102(e) as being anticipated by Martynov., US. patent 6,229,600 (hereafter Martynov).

As to claim 9, Martynov discloses the invention as claimed [see Figs. 1-6], An aberration state detection apparatus, including a light sending system, and a detection optical system, comprising:

a light sending system [fig. 6, units 90, 92, 93, 94 and 95] for focusing light from a light source [fig. 6, unit 90] onto a recording surface [fig. 6, surface 87] of an information medium [fig. 6, units 86, 87 and 88];

a detection optical system [fig. 6, unit 105 & 106] for detecting light from said information medium [col. 6, line 22 to col. 7, line 20]; and

means for detecting a state of occurrence of wavefront aberration [fig. 6, unit 107] or spherical aberration of the light focused on the recording surface of said information medium by said light sending system from a detection result obtained by said detection optical system [col. 5, lines 29-54 and col. 7, lines 1-20 and col. 7, line 58 to col. 8, line 8; see also fig. 1 and fig. 7].

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3. As to claim 10, Martynov discloses:

An apparatus comprising a light sending system [fig. 6, units 90, 92, 93, 94 and 95] for focusing light from a light source [fig. 6, unit 90] onto a recording surface [fig. 6, surface 87] of an information medium [fig. 6, units 86, 87 and 88] upon giving an optical aberration to the light, and a detection optical system [fig. 6, unit 105 & 106] for detecting light from said information medium [col. 6, line 22 to col. 7, line 20],

wherein an optical aberration state of the light focused on the recording surface of said information medium by said light sending system is detected from a detection result obtained by said detection optical system, said optical aberration state including a wavefront aberration [col. 5, lines 29-54 and col. 7, lines 1-20 and col. 7, line 58 to col. 8, line 8; see also fig. 1 and fig. 7].

4. Applicant's arguments filed on 1-14-04 ( Paper # 10) have been fully considered but they are not deemed to be persuasive for the following reasons.

5. In the REMARKS, the Applicant argues as follows:

A) That: " Martynov does not teach or suggest detecting of wavefront aberration as performed by the aberration state detection apparatus recited in claim 9." [page 5, para. 1; REMARKS].

FIRST : It is well known in the art that wavefront aberration is only a higher order aberration of spherical aberration and is contained within the spherical aberration.

SECOND: Specification throughout is using wavefront and spherical aberration as alternate of each other as far as detection goes. In other words the specification considers them equivalent of each other as far as the detection and its use are concerned.

THIRD: More importantly Martynov discloses that his system works on BOTH of them. See new rejection above.

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6.

**Other prior art cited**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Koike (US. patent 6,625,103) "Aspherical objective lens ...".
- b. Sasano et al. (US. patent 6,490,100) Objective lens ...
- c. Ogasawara (US. patent 6,141,304) Optical pickup

7. **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO **EXPIRE THREE MONTHS** FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8.

**Contact information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

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Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.



Gautam R. Patel  
Primary Examiner  
Group Art Unit 2655

February 16, 2004